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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/823,089	03/29/2001	Dennis Sunga Fernandez	FERN-P001B	9469
22877	7590	07/29/2005	EXAMINER	
FERNANDEZ & ASSOCIATES LLP 1047 EL CAMINO REAL SUITE 201 MENLO PARK, CA 94025			VO, TUNG T	
			ART UNIT	PAPER NUMBER
			2613	

DATE MAILED: 07/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/823,089

Applicant(s)

FERNANDEZ ET AL.

Examiner

Tung Vo

Art Unit

2613

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05/09/2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 37-66 is/are pending in the application.
- 4a) Of the above claim(s) 1-36 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 37-66 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 March 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                                                        |                                                                                         |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                            | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____                                                |

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments with respect to claims 46, 61, 43, 58, 50, 65, 51, 66 filed 05/09/05 have been considered but are moot in view of the new ground(s) of rejection.

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

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2. Claims 37-39, 41-43, 52-54, and 56-58 are rejected under 35 U.S.C. 102(e) as being anticipated by Hollenberg (US 6,091,956).

Re claims 37-39, 41-43, 52-54, and 56-58, Hollenberg discloses a cell phone for communicating with a networked controller (figs. 3 and 4) comprising:

a wireless communicator (14i of fig. 4) for communicating remotely with a networked controller (36b of fig. 3) via a network (20b or 20c of fig. 3);

a locator (34 of fig. 3) for providing a cell-phone location (2b of fig. 4, e.g. the situation information device provides a user a correct GPS information) to the networked controller via the wireless communicator (21b of fig. 3 and 14i of fig. 4);

a sensor (9g of fig. 4) for providing an image, audio, or video signal of a cell-phone user for transmission to the networked controller (36b of fig. 3) via the wireless communicator (20c of fig. 3);

a processor for accessing a communication module for enabling voice or video over Internet-Protocol streaming via the wireless communicator (col. 5, lines 13-27), the communication module (31b of fig. 3; see also 36b of fig. 3) comprising a user-customizable or reconfigurable software program firmware or circuit accessible locally in the cell-phone or remotely via the network (fig. 10, e.g. the user can use the cell phone to communicate with another user via the network or a local cell-phone network; see also figure 3; e.g. GPS, NETWORK, DATA... wherein the control system has a circuit to communicate with remote network (20b, 20c, 23a, 23c of fig. 3) and fig. 4), the communication module being partitioning or un-installable as functional component (9k of fig. 10, e.g. a part of the system, see also fig. 4), the voice or video stream being wirelessly communicated by the wireless communicator (14i of

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fig. 4, see also fig. 10) effectively via a data channel to a wireless Internet Service Provider (e.g. while users of the World-wide Web (larger Internet Service Provider) can get information about a specific product in a distant country, information about price and availability of a product at a local store is often frustratingly difficult to get. Once the product is located, the final shopping penalty is the time wasted in the cashier's line);

the locator comprises a global positioning satellite (GPS) receiver (34b of fig. 3); the sensor (9g of fig. 4) comprises a camera capable of recording the image, audio or video signal, and recognizing the cell-phone user voice or image;

the processor enables a local advertisement message (col. 16) that is pertinent to the cell-phone location to be presented to the cell-phone user; the processor runs a simulation of a cell-phone user movement or behavior (the camera capturing the user image)

the wireless communicator communicates within a group of cell-phones chatting privately in multi-cast mode using an embedded watermark or digital certificate, thereby securing such group communication electronically (col. 17, lines 19-25, e.g. the system also provides a resource for foreign or physically impaired visitors who lose their way in an area without situation information services is a device with which they could transmit a digital photograph of their location, which is a digital certificate, to local authorities who, after identifying their location, could orient them);

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 40, 44, 55, and 59 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hollenberg (US 6,091,956) in view of Joao et al. (US 6,047,270).

Re claims 40, 44, 55 and 59, Hollenberg teaches the cell-phone (fig. 4) is able to purchase the product over the Internet. Hollenberg does not particularly teach a processor for running a transaction program for metering usage by the cell-phone user and the wireless communicator communicates within restricted temporal or geographic range for transaction, thereby enabling cell-phone transaction only during unrestricted time or location as claimed.

However, Joao teaches a processor for running a transaction program for metering usage by the cell-phone user and the wireless communicator communicates within restricted temporal or geographic range for transaction, thereby enabling cell-phone transaction only during unrestricted time or location (col. 69, lines 1-21).

Therefore, taking the teachings of Hollenberg and Joao as a whole, it would have been obvious to one of ordinary skill in the art to incorporate the teachings of Joao into the cell-phone system of Hollenberg to easily keep track of usage of the cell-phone so that the cell-phone transaction would be transmitted during unrestricted time and location. Doing so would allow the cell-phone user to increase or decrease the respective amount calling areas and usage limits at any time and from any location.

5. Claims 45 and 60 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hollenberg (US 6,091,956) in view of McGregor et al. (US 6,243,574 B1).

Re claims 45 and 60, Hollenberg does not particularly teach the wireless communicator receives a media stream or application program from the network controller according subject to a tax rate of the cell phone as claimed.

However, McGregor teaches the wireless communicator receives a media stream or application program from the network controller according subject to a tax rate of the cell phone (12 of fig. 1; col. 13, lines 29-37).

Therefore, taking the teachings of Hollenberg and McGregor as a whole, it would have been obvious to one of ordinary skill in the art to incorporate the teachings of McGregor into the system of Hollenberg to define tax rate of the cell phone at the particular location.

Doing so would permit the wireless system to exactly and precisely identify the exact geographic location, rate, and tax of a mobile unit when a communication occurs.

6. Claims 46 and 61 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hollenberg (US 6,091,956) in view of Rudrapatna et al. (US 6,052,598).

Re claims 46 and 61, Hollenberg teaches the locator (14f, 21b, 36b of fig. 4) provide a location based temporally on the cell phone by the cell-phone acceleration or signal triangulation thereby enabling the cell-phone location to be provided during wireless-inaccessible down period as claimed.

However, Rudrapotna teaches the predicting the cell-phone location to be provided during wireless-inaccessible down period and measuring the next cell nearby where the cell-phone (col. 2, line 28-40).

Therefore, taking the teachings of Hollenberg and Rudrapatna as a whole, it would have been obvious to one of ordinary skill in the art to incorporate the teachings of Rudrapatna into

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the Hollenberg for measuring the directions of the cell-phone. Doing would allow the base station to easily determine the cell-phone location and estimate the velocity and direction of the cell-phone in which the cell-phone is traveling.

7. Claims 47-49 and 62-64 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hollenberg (US 6,091,956) in view of Kennedy, III et al. (US 6,301,480).

Re claims 47-49 and 62-64, Hollenberg further teaches situation information mapped in the context of spatial information, including appropriate to a geographical or other area, which suggests the wireless communicator (34b of fig. 3) communicates within geographic range of transaction thereby enabling cell phone only during location, and Hollenberg further teaches a traffic congestion and emergency-situation information can be provided to approaching motorists and distant emergency decision makers, respectively, by those on the scene equipped with camera and communication capabilities. Digital photographs or video recordings of the scene could be quickly transmitted to those who evaluate emergency-situation information. In the case of vehicular traffic congestion, the vehicle's location, speed, and travel-direction data could be collected and redistributed as real-time, graphical, traffic-situation information. Thus, vehicle operators could avoid traffic situations that lay in their paths. Motorists encountering accidents could transmit digital photographs to the emergency-response dispatch center. Accident victims could also record traffic-accident details, drivers involved, drivers' identification, license-plate numbers, etc., as corroborating visual information.



Therefore, the sensor (camera) would obviously provide surveillance signal from sensing a security condition of personal property coupled or nearby the cell-phone, thereby enabling remote surveillance of such property movement or safety as claimed.

It is noted that Hollenberg does not particularly teach the sensor provides a medical monitoring signal from sensing physically a biological condition of the cell phone user, thereby enabling health-care service according to a health-insurance coverage of the cellophane user; a vehicle diagnostic signal from sensing electronically a mechanical condition of an automobile coupled to the cell-phone, thereby enabling a neural network to diagnose the automobile adaptively as claimed.

However, Kennedy teaches mobile units (12 of fig. 1) may be hand-held or portable devices associated with any mobile items, such as cars, trucks, boats, barges, airplanes, cargo holders, persons, or other items that are movable or mobile. Mobile units (12 of fig. 1) may communicate with sensors to provide information on the location or status of mobile unit 12 or its associated mobile item. For example, a global positioning system (GPS) location receiver may be disposed at or near mobile unit (12 of fig. 1) to determine the location of an associated vehicle. Mobile unit (12 of fig. 1) may also receive information from alarms, odometers, speedometers, engine sensors, accelerometers, temperature gauges, humidity gauges, personal health sensors, or any other suitable sensors that generate information on the status of mobile unit (12 of fig. 1) or its associated mobile item so this suggests that the mobile unit (12 of fig. 1) provides a medical monitoring signal from sensing physically a biological condition of the cell phone user, thereby enabling health-care service according to a health-insurance coverage of the cellophane user; a vehicle diagnostic signal from sensing electronically a mechanical condition

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of an automobile coupled to the cell-phone, thereby enabling a neural network to diagnose the automobile adaptively.

Therefore, taking the combined teachings of Hollenberg and Kennedy as a whole, it would have been obvious to one of ordinary skill in the art to incorporate the teachings of Kennedy into the system of Hollenberg for the same purpose of communicating between the remote patient and central station fast and more accuracy.

Doing so would provide the advantages of the system include the adaptation of the system to provide mobile units are associated with cars, trucks, boats, barges, airplanes, cargo holders, persons or other mobile items such as ambulance vehicle that desire a selection of services and these services include emergency services, roadside assistance, information services (e.g., directions, news and weather reports, financial quotes, etc.), or other as suggested by Kennedy.

8. Claims 50 and 56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hollenberg (US 6,091,956) in view of Uppaluru (US 5,915,001).

Re claims 50 and 56, Hollenberg teaches enabling the advertisement for local goods or services to be included with the audio/visual signal based upon the cell-phone location (col. 9, lines 10-15, e.g. a situation information system which provides local or proximate information, such as merchant's advertising messages, merchandise offers, and tourism site information, according to mobile users' location).

It is noted that Hollenberg does not particularly teach the wireless communicator receives electronically an audio/video signal from the network controller according to an extensible

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markup language (XML) tag or software agent associated with the audio/visual signal as claimed.

However, Uppaluru teaches wireless communicator receives electronically an audio/video signal from the network controller according to an extensible markup language (XML) tag or software agent associated with the audio/visual signal (103 of fig. 1, e.g. Voice web pages 103 consist of HTML pages that have been extended with Hyper Voice Markup Language (HVML) for easy and effective navigation and access of voice information via a voice activated device such as an ordinary telephone.).

Therefore, taking Hollenberg and Uppaluru as a whole, it would have been obvious to one ordinary skill in the art to incorporate the teachings of Uppaluru into the cell-phone of Hollenberg to create the extensible markup language (XML) for the advertising message. Doing so would allow the cell-phone user to view the advertisement before he or she is going to purchase.

9. Claims 51 and 66 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hollenberg (US 6,091,956) in view of Almeida et al (US 6,356,758).

Re claims 51 and 66, Hollenberg further teaches that image, audio or video signal is provided in a multi-media simulation program to represent the cellphone user and location (the system also provides a resource for foreign or physically impaired visitors who lose their way in an area without situation information services is a device with which they could transmit a digital photograph of their location to local authorities who, after identifying their location, could orient them).

It is note that Hollenberg does not particularly teach or disclose the image, audio or video signal is in three-dimensions, virtual-reality or holo-graphically as claimed.

However, Almeida teaches the image, audio or video signal is provided in a multi-media simulation program to represent the cell-phone user (voice of the user) and location in three-dimensions, virtual-reality or holographically (col. 12, line 65-col. 13, line 5, e.g. means for virtually reconfiguring the configurable parameters and simulating the operational characteristics of the cell site based on the reconfiguration, wherein the virtual reconfiguring means includes means for simulating a cross-section of RF propagation at the cell site in a variety of planes using the RF propagation data and at least one of the cell site architectural data and the cell site topographical data) .

Therefore, taking the teachings of Almeida and Hollenberg as a whole, it would have been obvious to one of ordinary skill in the art to incorporate the teachings of Almeida into the cellphone system of Hollenberg for the same purpose of simulating the cell phone user and location.

Doing so would allow the central station to easily determine where the cell-phone user located and the nearly cell site in virtually-reality.

### ***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See the previous Office Action.


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***Contact Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tung Vo whose telephone number is 571-272-7340. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mehrdad Dastouri can be reached on 571-272-7418. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Tung Vo  
Primary Examiner  
Art Unit 2613